

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF WEST VIRGINIA**

Wheeling Division

**DIANA MEY,
CRAIG CUNNINGHAM,
STEWART ABRAMSON, and
JAMES EVERETT SHELTON,
individually and on behalf of a class of all
persons and entities similarly situated,**

Plaintiffs,

vs.

Case No. 5:17-cv-00179-JPB

DIRECTV, LLC;

and

**AC1 COMMUNICATIONS, a DirecTV Authorized Dealer,
and its principal, ADAM COX;
BIRJU, LLC, a DirecTV Authorized Dealer;
CDS V1, LLC d/b/a COMPLETE DIGITAL SOLUTIONS,
a DirecTV Authorized Dealer;
EXACT ESTIMATING, LLC, a DirecTV Authorized Dealer;
EXPLOSIVE SALES MARKETING GROUP, INC,
a DirecTV Authorized Dealer,
IQ MARKETING 2, CORP., d/b/a PACIFICOM,
a DirecTV Authorized Dealer, and its principal,
MICHAEL ASGHARI;
KREATAMOTIVE LLC, a DirecTV Authorized Dealer; and
MYLAN JOHNSON GROUP, a DirecTV Authorized Dealer;
NAS AIR LOGISTICS, a DirecTV Authorized Dealer;
PIC SIX, LLC, a DirecTV Authorized Dealer;
SUPER SALE OUTLETS, LLC., a DirecTV Authorized Dealer;
XCITE SATELLITE, LLC, a DirecTV Authorized Dealer;**

Defendants.

**PLAINTIFFS' RULE 55(a) MOTION FOR ENTRY OF DEFAULT BY THE CLERK
AGAINST DEFENDANT BIRJU, LLC**

Under Rule 55(a) of the Federal Rules of Civil Procedure, Plaintiffs Diana Mey, Craig Cunningham, Stewart Abramson and James Everett Shelton (hereinafter "Plaintiffs") request the

Clerk enter default against Defendant Birju, LLC as a result of its failure to answer or otherwise defend this action.

In support, Plaintiffs state:

1. Rule 55(a) of the Federal Rules of Civil Procedure states, “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.”

2. Defendant Birju, LLC has failed to plead or otherwise defend the claims in this case.

3. On November 7, 2018, the Clerk issued a summons for Birju, LLC, through its registered agent, VCorp Services CA, Inc., 818 West Seventh Street, Suite 930, Los Angeles, California 90017. (*See* Ex. 1). The summons directed that Birju, LLC answer the Plaintiffs’ First Amended Complaint (*See* Ex. 2.).

4. On November 27, 2018, the West Virginia Secretary of State accepted service of the First Amended Complaint and Summons on behalf of Defendant Birju, LLC. (*See* Ex. 1). On that same day, the West Virginia Secretary of State mailed the First Amended Complaint and Summons to the Defendant through its registered agent, VCorp Services CA, Inc., 818 West Seventh Street, Suite 930, Los Angeles, California 90017 by certified mail, certified number 92148901125134100002434523 (*See* Ex. 3). According to United States Postal Service records, it was delivered on December 3, 2018, at 11:46 a.m. (*See* Ex. 4).

5. Consistent with Federal Rule of Civil Procedure 12(a)(1)(A)(i), the summons stated that judgment by default would be entered against Birju, LLC if it failed to respond to the Amended Complaint within 21 days of service.

6. Defendant Birju, LLC has failed to respond whatsoever, and no representative has appeared on its behalf. *See* Docket Sheet attached as Ex.5.

7. Because Defendant Birju, LLC was properly served and has not appeared to defend, the Clerk should enter its default.

For these reasons, Plaintiffs request the Clerk enter default.

Dated: October 21, 2019

Respectfully submitted by,

/s/ John W. Barrett

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Defendants.

CERTIFICATE OF SERVICE

I, John W. Barrett, hereby certify that on October 21, 2019, I served a true and correct copy of "*Plaintiffs' Rule 55(A) Motion For Entry Of Default By The Clerk Against Defendant*"

Birju, LLC” was filed with the Clerk of Court using the CM/ECF System, which caused a true and accurate copy of such filing to be served upon the following counsel of record.

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